

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

KENNETH CHARLES LASSITER and  
ALPHA DORIS D. LASSITER,

Plaintiffs,

v.

CITY OF BREMERTON, MATTHEW  
THURING, JOHN VAN SANTFORD,  
ROBERT FORBES, BREMERTON POLICE  
CHIEF, et al.,

Defendants.

Case No. C05-5320 RBL

ORDER DENYING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT  
FOR EXCESSIVE FORCE

I. SUMMARY

This matter comes before the Court on Defendants Matthew Thuring and Jon Van Santford's motion for summary judgment. (Dkt. No. 217). The Defendant officers seek a ruling as a matter of law that they used objectively reasonable force in detaining Mr. Lassiter. Defendants alternatively assert that their conduct is protected by qualified immunity. Having reviewed the parties' submissions and determining that oral argument is not necessary for the disposition of this motion, the Court hereby DENIES Defendants' motion. The reasons for the Court's order are set forth below.

## II. BACKGROUND

The following alleged facts are set forth in a light most favorable to Plaintiffs:

On July 25, 2003, Defendant Officers John Van Santford and Matthew Thuring lawfully entered Plaintiffs' home to investigate a possible assault.<sup>1</sup> After refusing repeated orders to sit down, Officer Van Santford grabbed Mr. Lassiter's wrist, bent it back, and forced him to the floor. Defendants handcuffed Mr. Lassiter and informed him he was under arrest. Defendants did not loosen Mr. Lassiter's handcuffs despite his complaints that they were too tight. Mr. Lassiter did not fight Defendants. During the arrest, Mrs. Lassiter explained to Defendants that Mr. Lassiter had a hurt foot and a heart condition, but they did not listen.

Mr. Lassiter suffered injuries to his wrist, arms, and back. After the arrest, Defendants called an aid car to assist Mr. Lassiter. Mr. Lassiter later sought medical care for his injuries. Mr. Lassiter's injuries included cuts, bruises, a sprained wrist, and possible scapholunate dislocation. The pain he experienced necessitated doctor visits in August 2003 and October 2003.

## III. DISCUSSION

### A. Summary Judgment Standard

Summary judgment is appropriate when, viewing the facts in the light most favorable to the nonmoving party, there is no genuine issue of material fact which would preclude summary judgment as a matter of law. Once the moving party has satisfied its burden, it is entitled to summary judgment if the non-moving party fails to present, by affidavits, depositions, answer to interrogatories, or admissions on file, "specific facts showing that there is a genuine issue for trial." *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986). "The mere existence of a scintilla of evidence in support of the non-moving party's position is not sufficient." *Triton Energy Corp. v. Square D Co.*, 68 F.3d 1216, 1221 (9th Cir. 1995). Factual

---

<sup>1</sup> The Court previously held that Defendants both lawfully entered Plaintiffs' home and arrested Mr. Lassiter. As a result, the facts surrounding Defendants' entry need not be included.

1 disputes whose resolution would not affect the outcome of the suit are irrelevant to the consideration of a  
2 motion for summary judgment. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). In other  
3 words, “summary judgment should be granted where the non-moving party fails to offer evidence from  
4 which a reasonable [fact finder] could return a [decision] in its favor.” *Triton Energy Corp.*, 68 F.3d at  
5 1220.

7 B. Qualified Immunity Standard

8 Defendants in a § 1983 action are entitled to qualified immunity from civil liability damages if their  
9 conduct does not violate clearly established statutory or constitutional rights of which a reasonable person  
10 would have known. *See Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). The existence of qualified  
11 immunity generally turns on the objective reasonableness of the officer’s actions, without regard to the  
12 knowledge or subjective intent of the particular individual. *Id.* at 819. Whether a reasonable officer could  
13 have believed his or her conduct was proper is a question of law for the court and should be determined at  
14 the earliest possible point in the litigation. *ActUp!Portland*, 988 F.2d 868, 873 (9th Cir. 1993).

17 In analyzing a qualified immunity defense, the Court must determine: 1) whether a constitutional  
18 right would have been violated on the facts alleged, taken in the light most favorable to the party asserting  
19 the injury; and 2) whether the right was clearly established when viewed in the specific context of the case.  
20 *See Saucier v. Katz*, 533 U.S. 194, 205 (2001); *Kennedy v. City of Ridgefield*, 411 F.3d 1134, 1141 (9th  
21 Cir. 2005). In the second step, the court decides if the officers made a reasonable mistake about what the  
22 law requires. *Kennedy*, 411 F.3d at 1142; *see also, Doe v. Petaluma City Sch. Dist.*, 54 F.3d 1447, 1450  
23 (9th Cir. 1995) (where the law is clearly established, the burden is on the defendant to prove that his or her  
24 actions were nonetheless reasonable).

27 C. Excessive Force  
28

1 Defendants argue summary judgment is appropriate because they used objectively reasonable force  
2 in detaining Mr. Lassiter. (Dkt. No. 217 at 5). Defendants alternatively assert that their use of force is  
3 protected by qualified immunity. *Id.* at 7. Plaintiffs respond that the evidence, viewed in the light most  
4 favorable to them, demonstrates that Defendants did not use objectively reasonable force. (Dkt. No. 235  
5 at 9).

6  
7 The Fourth Amendment's "objective reasonableness" standard governs §1983 excessive force  
8 claims. *Graham v. Conner*, 490 U.S. 386, 388 (1989); *Smith v. City of Hemet*, 394 F.3d 689, 700 (9th  
9 Cir. 2005). Determining whether force is reasonable under the Fourth Amendment requires a "careful  
10 balancing of the nature and quality of the intrusion on the individual's Fourth Amendment interests against  
11 the countervailing government interests." *Graham*, 490 U.S. at 396 (internal quotations omitted). The  
12 court must gauge the reasonableness of the force from the perspective of the officer on the scene rather  
13 than with 20/20 hindsight. *Id.*

14  
15 The relevant factors used in determining the reasonableness of force include the nature of the crime  
16 involved, the threat the suspect posed, and whether the suspect was resisting arrest. *Id.* Because balancing  
17 the intrusion on an individual's Fourth Amendment interests against the government's interest "nearly  
18 always requires a jury to sift through disputed factual contentions, and to draw inferences therefrom,"  
19 summary judgment in excessive force cases should be "granted sparingly." *Smith*, 394 F.3d at 701  
20 (*quoting Santos v. Gates*, 287 F.3d 846, 852 (9th Cir. 2002); *accord Liston v. County of Riverside*, 120  
21 F.3d 965, 976 n.10 (9th Cir. 1997) (nothing that the reasonableness of force is "ordinarily a question of  
22 fact for the jury"). If the evidence, viewed in the light most favorable to Plaintiffs, could support a finding  
23 of excessive force, granting summary judgment is not appropriate. *Smith*, 394 F.3d at 700.

24  
25 Viewing the evidence in the light most favorable to Plaintiffs, a reasonable jury could find that  
26 Defendants used excessive force against Mr. Lassiter. Mr. Lassiter did refuse repeated orders to sit down.  
27 Mr. Lassiter alleges, however, that Defendants responded by grabbing his wrist, bending it back, and  
28

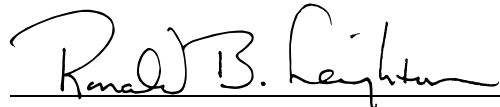
1 forcing him to the floor. Mr. Lassiter also alleges his handcuffs were too tight. The photographs Plaintiffs  
2 submitted illustrate the numerous bruises Mr. Lassiter received.<sup>2</sup> Assuming Mr. Lassiter's allegations  
3 regarding Defendants' use of force and the injuries he received are true, Defendants' actions were  
4 excessive. Thus, the Court turns to the next step in the qualified immunity analysis.  
5

6 Again assuming Mr. Lassiter's allegations are true, no reasonable officer would believe Defendants'  
7 conduct is lawful. Because there are too many disputed factual contentions surrounding Defendants'  
8 actions and Mr. Lassiter's injuries, summary judgment is inappropriate.  
9

#### 10 V. CONCLUSION AND ORDER

11 For the reasons discussed above, the Court DENIES Defendants' motion for summary judgment on  
12 excessive force (Dkt. No. 217) because genuine issues of material fact remain for trial.  
13

14 IT IS SO ORDERED this 13th day of December, 2006.  
15

16 

17 RONALD B. LEIGHTON  
18 UNITED STATES DISTRICT JUDGE  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

---

<sup>2</sup>See Dkt. No. 223, Exhibits B1-B5.